

REMARKS/ARGUMENTS

This case has been carefully reviewed and analyzed in view of the Office Action dated 1 November 2005. Responsive to that Office Action, Claims 1, 7, 11, and 14 have now been amended for further prosecution with the other pending Claims. It is believed that with such amendment of Claims, there is a further clarification of their recitations.

In the Office Action, the Examiner rejected Claims 1-13 under 35 U.S.C. § 102(e) as being anticipated by the van Pelt, et al. reference. The Examiner additionally rejected Claims 14-18 under 35 U.S.C. § 103(a) as being unpatentable over van Pelt, et al. in view of the Drakoulis, et al. reference. In setting forth the latter rejection, the Examiner acknowledged that van Pelt, et al. fails to disclose the determination of a digital data format and the sending of digital data to either a sound processing module or to an output unit after processing the digital data according to the determined result. The Examiner, however, cited Drakoulis, et al. for this feature and concluded that it would have been obvious to a person of ordinary skill in the art to have accordingly modified van Pelt, et al.'s device.

Applicant's claimed apparatus and method include among their combinations of features the use of a Bluetooth module for not only transmitting digital voice data of a cellular phone, but also "wirelessly transmit[ting] ... digital data including encoded music data," as newly-amended independent Claims 1, 7,

and 11 each now more clearly recite. This enables a second Bluetooth module within a wireless earphone to “wirelessly receiv[e]” such digital data “including encoded music data therein” for subsequent decoding and further processing, as newly-amended independent Claims 1, 7, and 14 now more clearly recite.

The full combination of these and other features now more clearly recited by Applicant’s pending Claims is nowhere disclosed by the cited references. While the van Pelt, et al. reference does provide for the use of a mobile phone with MP3 function, and the use of a wireless headphone unit, it nowhere provides for such things as the Bluetooth wireless transmission of music data from such mobile phone. Nor does the reference anywhere disclose the Bluetooth wireless reception of such music data at its wireless headphone unit. To the contrary, even where van Pelt, et al. provides for a second headphone unit 140 to be physically linked to the wireless headphone unit 110 for delivering of music in stereo, it notes that the music data is provided by other means to second headphone unit 140. Indeed, van Pelt, et al. specifically prescribes the second headphone unit 140 in such application to “receive[] MP3 encoded signals via connection 149,” (paragraph 0037) rather than through any wireless – let alone Bluetooth wireless – means.

The reference makes certain that even in alternate embodiments, “Bluetooth communications … [are] disabled on the second headset unit,” so that it may “devote its processing system to audio decoding” of music otherwise provided (paragraph 0042). This teaches clearly away from any apparatus or method

whereby a Bluetooth module is used in a cellular phone “to wirelessly transmit” any “digital data including encoded music data” (as Claims 1, 7, and 11 recite), or where a second Bluetooth module is used in a wireless earphone “to wirelessly receiv[e]” such “digital data including encoded music data therein” (as Claims 1, 7, and 14 recite).

Given such contrary teachings of the primarily-cited van Pelt, et al. reference, the disclosures of the secondarily-cited Drakoulis, et al. reference are found to be quite ineffectual to the present patentability analysis. Drakoulis, et al. relates to large area broadcast applications quite distinct from any Bluetooth wireless applications. Hence, the reference fails to remedy the deficiencies in van Pelt, et al.’s disclosures.

It is respectfully submitted, therefore, that the cited van Pelt, et al. and Drakoulis, et al. references, even when considered together, fail to disclose the unique combination of elements now more clearly recited by Applicant’s pending Claims for the purposes and objectives disclosed in the subject Patent Application. The other references cited by the Examiner but not used in the rejection are believed to be further remote from Applicant’s claimed apparatus and method when patentability considerations are taken properly into account.

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Reply to Office Action dated 1 November 2005

It is now believed that the subject Patent Application has been placed fully
in condition for allowance, and such action is respectfully requested.

Respectfully submitted,
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